

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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CHRISTOPHER O'ROURKE,	:	
	:	
Plaintiff,	:	<u>MEMORANDUM DECISION AND ORDER</u>
-against-	:	19 Civ. 3532 (GBD) (JW)
	:	
BLOOMS DELI,	:	
Defendant.	:	
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GEORGE B. DANIELS, United States District Judge:

On April 27, 2019, Christopher O'Rourke ("Plaintiff"), proceeding *pro se*, commenced the instant action, "pursuant to 42 U.S.C. § 12181, et. seq.", contending that the Defendant, Blooms Deli, violated the Americans with Disabilities Act and New York State and municipal anti-discrimination laws. Plaintiff filed, with the Clerk of Court, proof of service of the summons and complaint. (ECF No. 6.) Defendant never answered nor moved against the complaint. To date, Plaintiff has not taken any action, pursuant to Rule 55 of the Federal Rules of Civil Procedure ("FRCP"), in response to Defendant's default.

By an order dated October 11, 2019, Plaintiff was directed to advise the Court, on or before October 21, 2019, in writing, of the status of the action. Plaintiff was also advised that failing to comply with a court order may result in sanctions, including the dismissal of a complaint. (ECF No. 7.) Plaintiff did not comply with the October 11, 2019 order. A similar order, dated February 3, 2020, was sent to the plaintiff. (ECF No. 8.) Plaintiff did not comply with the February 3, 2020 order. On February 2, 2022, this case was referred to Magistrate Judge Willis.

Before this Court is Magistrate Judge Fox's March 4, 2020 Report and Recommendation (the "Report"), which recommends that this action be dismissed pursuant to FRCP 41(b). (Report at 2.) Magistrate Judge Fox informed the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*Id.*) No timely objections have been filed. Having reviewed the Report for clear error and finding none, this Court ADOPTS the Report in full.


As Magistrate Judge Fox properly concluded, Plaintiff has consistently failed to abide by court order and to prosecute this case. Dismissal is warranted. *See Link v Wabash R. Co.*, 370 U.S. 626, 629 (1962); *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001); Fed. R. Civ. P. 41(b).

### **CONCLUSION**

This action is dismissed, with prejudice, pursuant to F.R.C.P. 41(b). The Clerk of Court is instructed to close the above-captioned case and mail a copy of this order to Plaintiff.

Dated: August 17, 2022  
New York, New York

SO ORDERED.

  
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GEORGE B. DANIELS  
UNITED STATES DISTRICT JUDGE